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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,740	08/01/2003	Laurent Bellaiche	8793-52026	3856

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EXAMINER

KOSLOW, CAROL M

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/632,740	BELLAICHE ET AL.	
	Examiner	Art Unit	
	C. Melissa Koslow	1755	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/1/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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This action is in response to applicants' amendment of 1 May 2006. Applicants' arguments with respect to the value of v with respect to the claimed temperature range of above 50 K to below the Curie temperature of the disordered lead scandium niobium oxide perovskite were persuasive. Thus one of ordinary skill in the art would be able to determine the properties of the material having the claimed formula at any temperature between 0K up to 373 K simply by selecting a value of v . Therefore applicants have rebutted their arguments of 16 December 2005. Applicant's arguments with respect to the remaining rejection have been fully considered but they are not persuasive.

Claim 12 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply of 5 August 2005.

This application contains claim 12 drawn to an invention nonelected without traverse. A complete reply to the final rejection should include cancellation of nonelected claims (37 CFR 1.144) See MPEP § 821.01.

Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

There is no teaching in the originally filed disclosure as to how to produce a lead scandium niobium oxide perovskite having the claimed atomic structure. The statement that this material could be produced by MBE or pulse-laser deposition does not provide sufficient information as to the conditions necessary to produce an alloy having the claimed atomic

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structure. It is known in the art that the processing conditions must be controlled otherwise the claimed atomic structure will not form. Simply forming films of lead scandium niobium oxide perovskite by MBE or pulse-laser deposition would form the discussed disordered niobate, not the claimed atomic structure. There is no disclosure as to these necessary process conditions.

Accordingly, the claimed material was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

The declaration under 37 CFR 1.132 filed 5 May 2006 is insufficient to overcome the rejection of claim 13 as set forth in the last Office action because the provided articles produce materials having a different atomic structure than the claimed atomic structure. The provided articles produce materials having multilayered films where each film has a different distinct composition. Two of the articles teach materials have alternating barium titanate and strontium titanate films or layers and the third article teaches a material having alternating potassium niobate and potassium tantalate layers. The claimed material has a supercell of four lead scandium niobate layers where the ratio of scandium to niobium in the second and fourth layers is 0.5, the ratio of scandium to niobium in the first layer is $0.5+v/0.5-v$ and the ratio of scandium to niobium in the third layer is $0.5-v/0.5+v$, where $0 \leq v \leq 0.5$. None of the provided articles teach producing layers comprising both barium and strontium or both niobium and tantalum, i.e. solid solutions. In fact, the articles teach away from forming solid solution layers, such as those claimed, due to the disorder formed in such layers. Thus the articles do not show that one of ordinary skill in the art would have known at the time of invention how to produce a material having the claimed atomic structure. The rejection is maintained.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

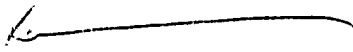
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cmk
June 27, 2006


C. Melissa Koslow
Primary Examiner
Tech. Center 1700